



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-011]

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China:
Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain crystalline silicon photovoltaic products (certain solar products) from the People's Republic of China (PRC). The period of investigation is January 1, 2012, through December 31, 2012. The final determination will be issued 75 days after the date of this preliminary determination unless otherwise extended. Interested parties are invited to comment on this preliminary determination.

DATES: EFFECTIVE DATE: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Gene Calvert or Justin Neuman, Office VII, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3586 and (202) 482-0486, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials.

For purposes of this investigation, subject merchandise also includes modules, laminates and/or panels assembled in the subject country consisting of crystalline silicon photovoltaic cells that are completed or partially manufactured within a customs territory other than that subject country, using ingots that are manufactured in the subject country, wafers that are manufactured in the subject country, or cells where the manufacturing process begins in the subject country and is completed in a non-subject country.

Subject merchandise includes crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of this investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also, excluded from the scope of this investigation are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China.¹

Also excluded from the scope of this investigation are crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently

¹ See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (December 7, 2012); Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Countervailing Duty Order, 77 FR 73017 (December 7, 2012).

integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

Methodology

The Department is conducting this countervailing duty investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our preliminary conclusions, including our reliance, in part, on adverse facts available, *see* the Preliminary Decision Memorandum.² The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

² See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance regarding "Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China," dated concurrently with this notice (Preliminary Decision Memorandum). A list of topics discussed in the Preliminary Decision Memorandum can be found as an appendix to this notice.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we determine separate subsidy rates for the individually-investigated producers/exporters of the subject merchandise, Wuxi Suntech Power Co., Ltd. and its cross-owned companies and Changzhou Trina Solar Energy Co., Ltd. and its cross-owned company.³ We also calculated an all-others rate. In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies’ exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and de minimis rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available. Where the rates for the investigated companies are all zero or de minimis, or based entirely on facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an all-others rate using “any reasonable method.” Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all-others” rate by weight averaging the rates of the two individually investigated respondents, because doing so risks disclosure of proprietary information. Therefore, and consistent with the Department’s practice where such risk exists, for the “all-others” rate, we calculated a simple average of the two responding firms’ rates.⁴ The overall preliminary subsidy rates are summarized in the table below:

Company	Subsidy Rate
Wuxi Suntech Power Co., Ltd.	35.21 percent
Changzhou Trina Solar Energy Co., Ltd.	18.56 percent
All Others	26.89 percent

³ For a full list of the examined cross-owned companies, see the Preliminary Decision Memorandum.

⁴ See, e.g., Hardwood and Decorative Plywood from the People’s Republic of China: Final Affirmative Countervailing Duty Determination; 2011, 78 FR 58283 (September 23, 2013).

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of certain solar products from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the Federal Register, and to require a cash deposit for such entries of merchandise in the amounts indicated above.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.⁵ Interested parties may submit case and rebuttal briefs, as well as request a hearing.⁶ For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, see the Preliminary Decision Memorandum.

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

⁵ See 19 CFR 351.224(b).

⁶ See 19 CFR 351.309(c)-(d), 19 CFR 351.310(c).

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated June 2, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
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- V. Respondent Selection
- VI. Injury Test
- VII. Application of the Countervailing Duty Law to Imports from the PRC
- VIII. Subsidies Valuation
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- XI. Analysis of Programs
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